

AMENDED IN SENATE MAY 6, 2008

SENATE BILL

No. 1613

Introduced by Senator Margett

February 22, 2008

An act to amend Section 136.5 of the Streets and Highways Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1613, as amended, Margett. Department of Transportation: contracts.

Existing law generally requires contracts for public works to be awarded pursuant to various procedures in the State Contract Act. Existing law exempts certain types of contracts awarded by the Department of Transportation from the State Contract Act, including contracts for major damage mitigation, equipment leasing or renting, and removal or relocation of structures or improvements on highway rights-of-way. These exempt contracts are generally required to be awarded to the lowest responsible bidder after competitive bidding on any reasonable notice prescribed by the department, but only if the estimated amount of the contract exceeds \$2,500.

This bill would ~~increase this amount to \$25,000~~ *authorize the department to follow similar exempt contract procedures for contracts not exceeding \$25,000 for the leasing or renting of operated heavy highway equipment for state highway maintenance purposes.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 136.5 of the Streets and Highways Code is amended to read:

136.5. (a) The contracts referred to in Sections 135, 136, and 136.1 are not subject to the State Contract Act (Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code). Except for emergency work of the type described in subdivision (b), whenever the estimated amount of a contract exceeds ~~twenty-five thousand dollars (\$25,000)~~, *it two thousand five hundred dollars (\$2,500)*, it shall be awarded to the lowest responsible bidder, after competitive bidding on any reasonable notice that the department may prescribe. Posting of notice for five days in a public place in the district office within which the work is to be done, or the equipment used, is sufficient. Those contracts shall be subject to the applicable payment bond provisions of Chapter 7 (commencing with Section 3247) of Part 4 of Division 3 of the Civil Code. The department may require faithful performance bonds when considered necessary. The advertisement for each contract shall state whether or not a bond shall be required.

(b) In cases of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, accident, or other casualty, tools or equipment may be rented for a period of not to exceed 60 days without competitive bidding, and the department may waive the requirements of Chapter 7 (commencing with Section 3247) of Part 4 of Division 3 of the Civil Code to the extent that a contractor may commence performance of the work under the contract for the rental of tools or equipment prior to filing a payment bond with the department. In that case, no payment shall be made to the contractor until a payment bond covering all work of the contract is filed with the department.

(c) *The department may enter into contracts not exceeding twenty-five thousand dollars (\$25,000) for the leasing or renting of operated heavy highway equipment for state highway maintenance purposes pursuant to the procedures and exemptions described in subdivision (a), notwithstanding the two thousand five hundred dollar (\$2,500) limitation in that subdivision. For purposes of this subdivision, "operated heavy highway equipment" shall mean bulldozers, grinders, loaders, pavers, oilers, and rollers that include within the leasing or rental costs the cost of the*

- 1 *qualified operator of the equipment. This subdivision shall not*
- 2 *apply to the leasing or renting of operated heavy highway*
- 3 *equipment to be utilized for new highway construction.*

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